

Water Pollution Control State Revolving Fund Intended Use Plan and Project Priority List

State Fiscal Year 2003
(Abbreviated)

July 1, 2002

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Planning, Prevention and Assistance Division
Water Pollution Control State Revolving Fund
1520 East Sixth Avenue
PO Box 200901
Helena MT 59620-0901
Phone: (406) 444-6697
Fax: (406) 444-6836

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**MONTANA
WATER POLLUTION CONTROL STATE REVOLVING FUNDS
SFY 2003 INTENDED USE PLAN**

I. INTRODUCTION

The State of Montana proposes to adopt the following Intended Use Plan (IUP) for state fiscal year 2003 as required under Section 606 of the Clean Water Act.

The primary purpose of the IUP is to identify the proposed annual intended use of the federal and state funds available to the Montana Water Pollution Control State Revolving Fund (WPCSRF). The following funds were appropriated to capitalize the WPCSRF:

<u>Federal Fiscal Year</u>	<u>Federal Amount</u>	<u>State Amount</u>
1989	\$ 4,577,200	\$ 915,440
1990	\$ 4,738,000	\$ 947,600
1991	\$ 10,074,800	\$ 2,014,960
1992	\$ 9,534,900	\$ 1,906,980
1993	\$ 9,431,000	\$ 1,886,200
1994	\$ 5,813,800	\$ 1,162,760
1995	\$ 6,007,800	\$ 1,201,560
1996	\$ 9,904,700	\$ 1,980,940
1997	\$ 2,990,500	\$ 598,100
1998	\$ 6,577,300	\$ 1,315,460
1999	\$ 6,577,900	\$ 1,315,580
2000	\$ 6,555,200	\$ 1,311,040
2001	\$ 6,496,100	\$ 1,299,220
2002	\$ 6,510,800	\$ 1,302,160
Total	<u>95,790,000</u>	<u>19,158,000</u>

Federal dollars appropriated in one year are available for use in the next year (i.e. the FFY 2002 appropriation is available in FFY 2003). The State match will be raised through the sale of general obligation bonds as the need for funds arises. The IUP will be reviewed by the public and will reflect the results of the review.

The IUP includes the following:

- I. Introduction
- II. List of Projects
- III. Order of Funding
- IV. Uses of the Revolving Fund
- V. Goals and Objectives
- VI. Activities to be Supported
- VII. Assurances and Specific Proposals
- VIII. Criteria and Method for Distribution of Funds
- IX. Subsidies to Disadvantaged Communities
- X. Public Comment, Amending IUP, State Commitment of Funds

II. LIST OF PROJECTS

The Montana Water Pollution Control State Revolving Fund (WPCSRF) Loan program is intended to provide low interest loans for the planning, design and construction of water pollution control projects. A complete list of any and all projects considered possible candidates for assistance from the Montana WPCSRF Loan program can be found in **Attachment 1**. The Project Priority List (PPL) identifies potential projects eligible for WPCSRF loan funds.

Those projects with binding commitment dates occurring within the next two upcoming federal fiscal years are considered active and viable projects. A binding commitment will be in the form of a written agreement between the State of Montana and a borrower indicating the amount of the loan and the time at which the funds will be made available. The binding commitment obligates the State to making the loan and the borrower to receipt of the proceeds and repayment as per specified terms.

III. ORDER OF FUNDING

WPCSRF funds will be administered on a first-come, first-served basis. As demand for the money increases, the following factors will be considered when the project is ranked by the State:

1. Need for and benefit to be derived by the project as determined by the annual project priority list. In FFY 1999 Montana developed and implemented a new watershed approach project priority list ranking system. In SFY 2002 Montana made a few minor modifications to the ranking system. Minor changes were made to the activity-specific category and the available points in the readiness category were doubled. This will allow projects that are ready for construction to move higher on the list. All projects are now ranked using the watershed ranking criteria.
2. Ability of the municipality or private concern to finance the project, with and without loan assistance (See Section IX).
3. Amount of financial assistance available from the revolving fund and the cumulative amount of funds requested from other applicants.

IV. USES OF THE WATER POLLUTION CONTROL REVOLVING FUND

The WPCSRF may be used to:

1. Provide low interest loans to municipalities for cost-effective wastewater treatment systems, new interceptors, collectors, and appurtenances, infiltration/inflow correction, sewer system rehabilitation, expansion and correction of combined sewer overflows, and construction of new storm sewers. The low interest loans can be made for up to 100 percent of the total project cost. At the beginning of FY03 approximately \$116 million in loans have been made to communities in Montana. Each of these loans has had a total loan interest rate of 4% or less;
2. Refinance qualifying debt obligations for water pollution control facilities if the debt was incurred and construction initiated after March 7, 1985. At the beginning of FY03 approximately \$1.1 million of debt has been refinanced through this program;
3. Guarantee or purchase insurance for local debt obligations. At the beginning of FY03 no loans have been made for this purpose;
4. Provide a source of revenue or security for general obligation bonds, the proceeds of which are deposited in the revolving fund. At the beginning of FY03 \$1.2 million has been provided for this purpose. There is a 1% loan loss reserve surcharge included as part of

the 4% interest rate for loans not qualifying for a hardship. The use of the surcharge is to pay principal and interest on state G.O. Bonds if the Debt Service Account is insufficient to make payments. This is to secure \$15.5 million in State General Obligation Bonds. The excess over the required reserve was transferred to the principle account to make loans;

5. Provide loan guarantees for similar revolving funds established by municipalities. At the beginning of FY03 no loans have been made for this purpose;
6. Finance non-point source pollution control (Section 319) implementation projects or programs. At the beginning of FY03 approximately \$12.1 million has been loaned out for these types of projects;
7. Earn interest on program fund accounts; at the beginning of FY03 our cash flow demonstrates this program will continue to be a strong source of loan funds once the federal grants are terminated. Interest income to date has been used to pay off program G.O. Bond debt. The interest of \$2.5 million there FY02 will be used to pay debt or make loans in the program;
8. Pay reasonable administrative costs of the WPCSRF program not to exceed four (4) percent (or the maximum amount allowed under the federal act) of all federal grants awarded to the fund. In addition to using WPCSRF funds for administration, each loan has an administrative fee included in the principal and an administrative surcharge included in the 4% interest rate charged to borrow. The fee is 0.575% and the surcharge is 0.75%. The reserve generated from this fee and surcharge, will be used for WPCSRF administration costs not covered by the EPA grants after capitalization grants cease and pay for administration of recycled projects. At the beginning of FY03, there was approximately \$3.9 million available for this purpose. Capitalization grants are approved by Congress every year and EPA is currently projecting WPCSRF funding through FFY05. There is also a one (1) percent loan origination fee charged at loan closing, which is included in the figure above. If needed, these administrative funds could be transferred to the principle account and used to make loans.

A determination of which projects are selected from the PPL, the amount of assistance, and financing terms and conditions will be made by the Montana Department of Environmental Quality (DEQ) and the Montana Department of Natural Resources and Conservation (DNRC).

At the Governor's discretion, a state may transfer up to thirty-three (33) percent of the Drinking Water SRF capitalization grant dollar amount to the Clean Water SRF or an equal amount from the Clean Water SRF to the Drinking Water SRF. Transfers cannot occur until at least one year after receipt of the first capitalization grant, which was June 20, 1999. DEQ transferred the maximum amount allowable under the FY 1997, 1998 and 1999 capitalization grants (\$4,892,646, \$2,350,029, and \$2,463,054) from the Clean Water SRF to the Drinking Water SRF. In FY03 approximately \$2 to \$3 million may be transferred back from DWSRF to WPCSRF, if needed.

No negative impacts are expected to either SRF program in the short or long term. The source of transfer funds shall consist of capitalization grants, state match, loan repayments, and other program funds as determined appropriate by DEQ and DNRC.

V. GOALS AND OBJECTIVES

Long-Term Goal and Objectives

The long-term goal of the WPCSRF is to maintain, restore and enhance the chemical, physical and biological integrity of the State's waters for the benefit of the overall environment and the protection of public health.

Objectives:

1. Provide affordable financial assistance for eligible applicants concurrent with the objective of maintaining a long-term, self-sustaining State revolving fund program; and
2. Fulfill the requirements of pertinent federal, state and local laws and regulations governing water pollution control activities, while providing the state and local project sponsors with maximum flexibility and decision-making authority regarding such activities.

Short-Term Goal and Objectives

The short-term goals of the WPCSRF are to continue to preserve and improve the quality of the State's waters (surface and groundwater), to meet the wastewater treatment needs of the state, and to eliminate any public health hazards related to the discharge of inadequately treated wastewater.

Objectives:

1. Maintain and promote the WPCSRF program, which provides low interest financing (up to 100 percent loans) for water pollution control systems; provide loans to approximately ten communities;
2. Ensure the technical integrity of WPCSRF projects through the review of planning, design plans and specifications, construction activities and development of a sound operation and maintenance program;
3. Ensure compliance with all pertinent federal, state and local water pollution control laws and regulations;
4. Obtain optimum turnover of the funds for the State in the shortest reasonable time; fund eligible NPS projects;
5. Simplify the administrative and regulatory requirements of the program without sacrificing project quality to make the financial assistance readily accessible; meet regularly with DNRC and financial consultants to consider ways to improve the program and optimize use of resources; and
6. Apply for all available appropriated federal funds contingent on federal legislation.

VI. INFORMATION ON THE ACTIVITIES TO BE SUPPORTED

The primary type of assistance to be provided by the WPCSRF is expected to be loans and refinancing of existing debts, where eligible. The State plans on reserving an amount equal to four (4) percent of the federal capitalization grant for administrative expenses. On a more limited basis, the State may guarantee or buy insurance for local debt obligations, or leverage bond issues.

From the WPCSRF, these types of assistance will be provided to local communities, sanitary sewer districts, counties, eligible private concerns, or other sub-governmental units recognized under Montana statutes for the construction of publicly-owned wastewater treatment facilities or non-point source water pollution control projects.

VII. ASSURANCES AND SPECIFIC PROPOSALS

The State will assure compliance with the following sections of the law in the State/EPA Operating Agreement, of which this document is a part. In addition, the State has developed specific proposals on implementation of those assurances in the rules promulgated by the Montana Board of Environmental Review and the Montana Board of Natural Resources.

- Section 602(a) - Environmental Reviews - The State of Montana certifies that it will conduct environmental reviews of each project receiving assistance from the WPCSRF. Montana will follow EPA approved NEPA-like procedures in conjunction with such environmental reviews.
- Section 602(b)(3) - Binding Commitments - The State of Montana certifies that it will enter into binding commitments equal to at least 120 percent of each quarterly grant payment within one year after receipt.
- Section 602(b)(4) - Timely Expenditures - The State of Montana certifies that it will expend all funds in the WPCSRF in an expeditious and timely, yet feasible, manner.
- Section 602(b)(6) - Compliance with Title II Requirements - The State of Montana certifies that the applicable Title II requirements listed under this section will be satisfied in the same manner as projects constructed under Title II of the Clean Water Act.

VIII. CRITERIA AND METHOD FOR DISTRIBUTION OF FUNDS

WPCSRF funds will be distributed using the methods and criteria for eligible activities described in the WPCSRF program rules that have been adopted by the DEQ and DNRC. As previously described WPCSRF funds will be allocated on a first-come, first-served basis until demand for funds exceeds available supply. At that time, funds will be distributed in accordance with the procedure developed in the DEQ Administrative Rules. This procedure considers ranking on the Priority List, readiness of the project to proceed, and impacts of the project to the WPCSRF. Loan terms and interest rates will be determined in accordance with the Administrative Rules adopted by the DNRC. Interest rates must be established to generate sufficient revenues to allow the State to make the principal and interest payments on general obligation bonds sold to generate the State match. Ability to repay the loan will also be considered when establishing loan terms. The types of financial assistance provided by the WPCSRF will initially be based on the applicant's request. It is anticipated that the majority of assistance will be provided in the form of direct loans.

IX. SUBSIDIES TO DISADVANTAGED COMMUNITIES

Communities seeking a WPCSRF loan that meet the disadvantaged criterion listed below may receive an additional subsidy on their WPCSRF loans, beyond the standard below-market rate financing. This includes communities that will meet the disadvantaged criterion based on projected rates as a result of the project.

A community is considered economically disadvantaged when its combined monthly water and wastewater system rates are greater than or equal to 2.2% of the community's Median Household Income (MHI). If the community has only a wastewater system, the percentage is 0.8% of the community's MHI. These percentages are consistent with affordability requirements of other state funding agencies in Montana. The water and sewer rates used for this calculation include new and existing debt service and required coverage, new and existing operation and maintenance charges, and depreciation and replacement of equipment.

To assist these economically disadvantaged communities, the WPCSRF loan program will provide to qualifying communities a 1.0% interest rate reduction. The total amount of reduced interest rate loans that the WPCSRF will issue under any single capitalization grant will be limited to 20% of that capitalization grant beginning in FFY 1998. This measure is taken to ensure that the corpus of the WPCSRF fund will be maintained and thus that the program will be able to operate in perpetuity, while still providing some additional assistance to economically disadvantaged communities. The maximum loan amount is \$500,000.

X. PUBLIC COMMENT, AMENDING IUP, STATE FINANCIAL COMMITMENT

Public Review and Comment – One public hearing was held Tuesday, June 18, 2002, in Helena to discuss the SFY 2003 PPL and to allow public comment on the draft IUP. Public notice concerning the PPL and IUP were available to the public upon request.

Amending the IUP - A simple addition to the IUP will be allowed after notification has been provided to projects already on the list. If a project scheduled to receive loan assistance within the year is displaced by the addition of a new project, a formal public hearing will be held to allow comment on the modifications to the IUP. Projects added to the IUP must come from the current PPL.

State Financial Commitment - The 1989 Montana Legislature passed House Bill 601 titled the Wastewater Treatment Revolving Fund Act, which was subsequently signed into law by the Governor. The Act created the new program, established administrative procedures and allowed for a sale of state general obligation bonds in an amount not to exceed ten million dollars. The 1995 Montana Legislature passed House Bill 493, which was subsequently signed into law by the Governor. Among other things, the Act allowed for the sale of state general obligation bonds in an amount not to exceed an additional five million dollars. The 1999 Montana Legislative passed House Bill 110, which gives the WPCSRF an additional fifteen million dollars in general obligation bonding authority. The combined bonding authority provided by these three bills furnishes the WPCSRF with thirty million dollars in state general obligation bond authority, which provides enough funds to match all federal appropriations (1989-2002) that have been awarded to the program to date as well as excess bond authority for potential future federal appropriations. The State held its first bond sale in June of 1995-96. In June of 1996 Montana held its second and third bond sales to provide State match funds for projects scheduled to proceed in FFY 1997. In March of 1998 a fourth bond sale was held to provide State match for projects scheduled to proceed in FFY 1998 and 1999. In March of 2000 a fifth bond sale was held to provide State match for projects scheduled to proceed in FFY 2000 and 2001. In June 2001 a sixth bond sale was held to provide match for projects scheduled to proceed in 2002.